

106TH CONGRESS
2D SESSION

H. R. 5371

To authorize the Secretary of the Interior to establish the Sand Creek
Massacre National Historic Site in the State of Colorado.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2000

Mr. SCHAFER introduced the following bill; which was referred to the
Committee on Resources

A BILL

To authorize the Secretary of the Interior to establish the
Sand Creek Massacre National Historic Site in the State
of Colorado.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sand Creek Massacre
5 National Historic Site Establishment Act of 2000”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) on November 29, 1864, a peaceful village of
9 Cheyenne and Arapaho Indians under the leadership
10 of Chief Black Kettle, along Sand Creek in south-

1 eastern Colorado territory was attacked by approxi-
2 mately 700 volunteer soldiers commanded by Colonel
3 John M. Chivington;

4 (2) more than 150 Cheyenne and Arapaho were
5 killed in the attack, most of whom were women, chil-
6 dren, or elderly;

7 (3) during the massacre and the following day,
8 the soldiers committed atrocities on the dead before
9 withdrawing from the field;

10 (4) the site of the Sand Creek Massacre is of
11 great significance to descendants of the victims of
12 the massacre and their respective tribes, for the
13 commemoration of ancestors at the site;

14 (5) the site is a reminder of the tragic extremes
15 sometimes reached in the 500 years of conflict be-
16 tween Native Americans and people of European
17 and other origins concerning the land that now com-
18 prises the United States;

19 (6) Congress, in enacting the Sand Creek Mas-
20 sacre National Historic Site Study Act of 1998
21 (Public Law 105–243; 112 Stat. 1579), directed the
22 National Park Service to complete a resources study
23 of the site;

24 (7) the study completed under that Act—

1 (A) identified the location and extent of
2 the area in which the massacre took place; and

3 (B) confirmed the national significance,
4 suitability, and feasibility of, and evaluated
5 management options for, that area, including
6 designation of the site as a unit of the National
7 Park System; and

8 (8) the study included an evaluation of environ-
9 mental impacts and preliminary cost estimates for
10 facility development, administration, and necessary
11 land acquisition.

12 (b) PURPOSES.—The purposes of this Act are—

13 (1) to recognize the importance of the Sand
14 Creek Massacre as—

15 (A) a nationally significant element of
16 frontier military and Native American history;
17 and

18 (B) a symbol of the struggles of Native
19 American tribes to maintain their way of life on
20 ancestral land;

21 (2) to authorize, on acquisition of sufficient
22 land, the establishment of the site of the Sand Creek
23 Massacre as a national historic site; and

24 (3) to provide opportunities for the tribes and
25 the State to be involved in the formulation of gen-

1 eral management plans and educational programs
2 for the national historic site.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) DESCENDANT.—The term “descendant”
6 means a member of a tribe, an ancestor of whom
7 was injured or killed in, or otherwise affected by, the
8 Sand Creek Massacre.

9 (2) MANAGEMENT PLAN.—The term “manage-
10 ment plan” means the management plan required to
11 be developed for the site under section 7(a).

12 (3) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior, acting through the Di-
14 rector of the National Park Service.

15 (4) SITE.—The term “site” means the Sand
16 Creek Massacre National Historic Site established
17 under section 4(a).

18 (5) STATE.—The term “State” means the State
19 of Colorado.

20 (6) TRIBE.—The term “tribe” means—

21 (A) the Cheyenne and Arapaho Tribes of
22 Oklahoma;

23 (B) the Northern Cheyenne Tribe; or

24 (C) the Northern Arapaho Tribe.

1 **SEC. 4. ESTABLISHMENT.**

2 (a) IN GENERAL.—

3 (1) DETERMINATION.—On a determination by
4 the Secretary that land described in subsection
5 (b)(1) containing a sufficient quantity of resources
6 to provide for the preservation, memorialization,
7 commemoration, and interpretation of the Sand
8 Creek Massacre has been acquired by the National
9 Park Service, the Secretary shall establish the Sand
10 Creek Massacre National Historic Site, Colorado.

11 (2) PUBLICATION.—The Secretary shall publish
12 in the Federal Register a notice of the determination
13 of the Secretary under paragraph (1).

14 (b) BOUNDARY.—

15 (1) MAP AND ACREAGE.—The site shall consist
16 of the approximately 12,480 acres in Kiowa County,
17 Colorado, the site of the Sand Creek Massacre, as
18 generally depicted on the map entitled, “Sand Creek
19 Massacre Historic Site”, numbered, SAND 80,013
20 IR, and dated July 1, 2000.

21 (2) LEGAL DESCRIPTION.—The Secretary shall
22 prepare a legal description of the land and interests
23 in land described in paragraph (1).

24 (3) PUBLIC AVAILABILITY.—The map prepared
25 under paragraph (1) and the legal description pre-
26 pared under paragraph (2) shall be on file and avail-

1 able for public inspection in the appropriate offices
2 of the National Park Service.

3 (4) BOUNDARY REVISION.—The Secretary may,
4 as necessary, make minor revisions to the boundary
5 of the site in accordance with section 7(c) of the
6 Land and Water Conservation Act of 1965 (16
7 U.S.C. 460l–9(c)).

8 **SEC. 5. ADMINISTRATION.**

9 (a) IN GENERAL.—The Secretary shall manage the
10 site in accordance with—

11 (1) this Act;

12 (2) the Act entitled “An Act to establish a Na-
13 tional Park Service, and for other purposes”, ap-
14 proved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1
15 et seq.);

16 (3) the Act of August 21, 1935 (16 U.S.C. 461
17 et seq.); and

18 (4) other laws generally applicable to manage-
19 ment of units of the National Park System.

20 (b) MANAGEMENT.—The Secretary shall manage the
21 publicly-owned lands within the boundary of the site—

22 (1) to protect and preserve the site, including—

23 (A) the topographic features that the Sec-
24 retary determines are important to the site;

1 (B) artifacts and other physical remains of
2 the Sand Creek Massacre; and

3 (C) the cultural landscape of the site, in a
4 manner that preserves, as closely as practicable,
5 the cultural landscape of the site as it appeared
6 at the time of the Sand Creek Massacre;

7 (2)(A) to interpret the natural and cultural re-
8 source values associated with the site; and

9 (B) provide for public understanding and ap-
10 preciation of, and preserve for future generations,
11 those values; and

12 (3) to memorialize, commemorate, and provide
13 information to visitors to the site to—

14 (A) enhance cultural understanding about
15 the site; and

16 (B) assist in minimizing the chances of
17 similar incidents in the future.

18 (c) CONSULTATION AND TRAINING.—

19 (1) IN GENERAL.—In developing the manage-
20 ment plan and preparing educational programs for
21 the public about the site, the Secretary shall consult
22 with, and solicit advice and recommendations from,
23 the tribes, the State, and local governments.

24 (2) AGREEMENTS.—The Secretary may enter
25 into cooperative agreements with the tribes (includ-

1 ing boards, committees, enterprises, and traditional
2 leaders of the tribes), the State, and local govern-
3 ments to carry out this Act.

4 **SEC. 6. ACQUISITION OF PROPERTY.**

5 (a) IN GENERAL.—The Secretary shall acquire land
6 and interests in land within the boundaries of the site—

7 (1) through purchase (including purchase with
8 donated or appropriated funds) only from a willing
9 seller; and

10 (2) by donation or exchange, except that any
11 land or interest in land owned by the State (includ-
12 ing a political subdivision of the State) may be ac-
13 quired only by donation.

14 (b) AGRICULTURE, RANCHING, PRIVATE LANDS.—
15 Nothing in this Act shall give the Secretary control over
16 privately-owned agricultural and ranching lands within the
17 boundaries of the site.

18 (c) PRIORITY FOR ACQUISITION.—The Secretary
19 shall give priority to the acquisition of land containing the
20 marker in existence on the date of enactment of this Act,
21 which states “Sand Creek Battleground, November 29
22 and 30, 1864”, within the boundary of the site.

23 (d) COST-EFFECTIVENESS.—

24 (1) IN GENERAL.—In acquiring land for the
25 site, the Secretary, to the maximum extent prac-

1 ticable, may use cost-effective alternatives to Federal
2 fee ownership, including—

3 (A) the acquisition of conservation ease-
4 ments; and

5 (B) by donation or exchange except that
6 any land or interest in land owned by the State
7 (including any political subdivision of the State)
8 may be acquired only by donation.

9 (2) SUPPORT FACILITIES.—A support facility
10 for the site that is not within the designated bound-
11 ary of the site shall be located in Kiowa County,
12 Colorado, subject to an agreement between the Sec-
13 retary and the Commissioners of Kiowa County, Col-
14 orado.

15 **SEC. 7. MANAGEMENT PLAN.**

16 (a) IN GENERAL.—Not later than 5 years after the
17 date on which funds are made available to carry out this
18 Act, the Secretary shall prepare a management plan for
19 the site.

20 (b) INCLUSIONS.—The management plan shall cover,
21 at a minimum—

22 (1) measures for the preservation of the re-
23 sources of the site;

1 (2) requirements for the type and extent of de-
2 velopment and use of the site, including, for each
3 development—

4 (A) the general location;

5 (B) timing and implementation require-
6 ments; and

7 (C) anticipated costs;

8 (3) requirements for onsite support facilities in
9 Kiowa County;

10 (4) identification of, and implementation com-
11 mitments for, visitor carrying capacities for all areas
12 of the site;

13 (5) opportunities for involvement by the tribes,
14 the State, and local government, in the formulation
15 of educational programs for the site; and

16 (6) opportunities for involvement by the tribes,
17 the State, and other local and national entities in
18 the responsibilities of developing and supporting the
19 site.

20 **SEC. 8. NEEDS OF DESCENDANTS.**

21 (a) IN GENERAL.—A descendant shall have reason-
22 able rights of access to, and use of, federally acquired land
23 within the site, in accordance with the terms and condi-
24 tions of a written agreement between the Secretary and
25 the tribe of which the descendant is a member.

1 (b) COMMEMORATIVE RIGHTS.—In addition to the
2 rights described in subsection (a), any special need of a
3 descendant shall be considered in park planning and oper-
4 ations, especially with respect to commemorative activities
5 in designated areas within the site.

6 **SEC. 9. TRIBAL ACCESS FOR TRADITIONAL CULTURAL AND**
7 **HISTORICAL OBSERVANCE.**

8 (a) ACCESS.—

9 (1) IN GENERAL.—The Secretary shall grant to
10 any descendant or other member of a tribe reason-
11 able access to federally acquired land within the site
12 for the purpose of carrying out a traditional, cul-
13 tural, or historical observance.

14 (2) NO FEE.—The Secretary shall not charge
15 any fee for access granted under paragraph (1).

16 (b) CONDITIONS OF ACCESS.—In granting access
17 under subsection (a), the Secretary shall temporarily close
18 to the general public one or more specific portions of the
19 site in order to protect the privacy of tribal members en-
20 gaging in a traditional, cultural, or historical observance
21 in those portions, and any such closure shall be made in
22 a manner that affects the smallest practicable area for the
23 minimum period necessary for the purposes described
24 above.

25 (c) SAND CREEK REPATRIATION SITE.—

1 (1) IN GENERAL.—The Secretary shall dedicate
2 a portion of the federally acquired land within the
3 site to the establishment and operation of a site at
4 which certain items referred to in paragraph (2)
5 that are repatriated under the Native American
6 Graves Protection and Repatriation Act (25 U.S.C.
7 300 et seq.) or any other provision of law may be
8 interred, reinterred, preserved, or otherwise pro-
9 tected.

10 (2) ACCEPTABLE ITEMS.—The items referred to
11 in paragraph (1) are any items associated with the
12 Sand Creek Massacre, such as—

- 13 (A) Native American human remains;
- 14 (B) associated funerary objects;
- 15 (C) unassociated funerary objects;
- 16 (D) sacred objects; and
- 17 (E) objects of cultural patrimony.

18 (d) TRIBAL CONSULTATION.—In exercising any au-
19 thority under this section, the Secretary shall consult with,
20 and solicit advice and recommendations from, descendants
21 and the tribes.

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